

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WINNIFRIED NOEL CHARLES, :
 : ECF CASE
Plaintiff, :
 : No. 07 Civ. 8324 (JSR) (THK)
 :
-against- :
 :
MICHAEL CHERTOFF, Secretary of the :
Department of Homeland Security, in his official :
capacity, ENRICA TROY, MARY ANN :
GANTNER, and the DEPARTMENT OF :
HOMELAND SECURITY, :
 :
Defendants. :
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DECLARATION OF JOSEPH A. PANTOJA

JOSEPH A. PANTOJA, pursuant to 28 U.S.C. § 1746, declares the following under penalty of perjury:

1. I am an Assistant United States Attorney in the office of Michael J. Garcia, United States Attorney for the Southern District of New York, attorney for the defendants in the above-captioned action. I have been assigned to defend this matter and am familiar with the proceedings herein. I make this declaration in support of defendant's motion to dismiss and for summary judgment.
2. Attached hereto as Exhibit 1 are true and correct copies of letters dated August 30, 2005, and November 2, 2005, from plaintiff to the Office of Personnel Management, as produced by plaintiff in discovery in this matter.

3. Attached hereto as Exhibit 2 is a true and correct copy of a letter from plaintiff to United States Citizenship and Immigration Services (“CIS”) Human Resources in Vermont, dated December 30, 2005, which is bates-stamped US 2648.

4. Attached hereto as Exhibit 3 is a true and correct copy of CIS’s letter to plaintiff, dated January 5, 2006, which is bates-stamped US 517.

5. Attached hereto as Exhibit 4 is a true and correct copy of CIS’s letter to plaintiff, dated May 30, 2006, which is bates-stamped US 500-16.

6. Attached hereto as Exhibit 5 is a true and correct copy of plaintiff’s letter to CIS, dated June 26, 2006, which is bates-stamped US 554.

7. Attached hereto as Exhibit 6 is a true and correct copy of CIS’s email to plaintiff, dated August 11, 2006, which is bates-stamped US 556.

8. Attached hereto as Exhibit 7 is a true and correct copy of the Report of EEO Counseling in the administrative matter underlying this action, which is bates-stamped US 5-26.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Individual Complaint of Employment Discrimination that plaintiff filed with the agency, which is bates-stamped US 1-4.

10. Attached hereto as Exhibit 9 is a true and correct copy of the Department of Homeland Security’s Final Decision, dated December 29, 2006, which is bates-stamped US 27-35.

11. Attached hereto as Exhibit 10 is a true and correct copy of the United States Equal Employment Opportunity Commission’s (“EEOC’s”) decision denying plaintiff’s appeal, which is bates-stamped US 36-39.

12. Attached hereto as Exhibit 11 is a true and correct copy of the EEOC's June 19, 2007 decision denying plaintiff's request for reconsideration, which is bates-stamped US 40-42.

13. Attached hereto as Exhibit 12 are true and correct copies of selected pages of plaintiff's deposition in this matter.

14. Attached hereto as Exhibit 13 are true and correct copies of selected pages of Enrica Troy's deposition in this matter.

Dated: June 4, 2008
New York, New York

/s/ Joseph A. Pantoja
JOSEPH A. PANTOJA